



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/598,406

02/06/2007

Bjarne Nordli

06117

3841

23338 7590 07/10/2009
DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

EXAMINER

BARTOSIK, ANTHONY N

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

07/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,406	Applicant(s) NORDLI, BJARNE	
	Examiner ANTHONY N. BARTOSIK	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 & 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a Final Rejection sent in response to Applicant's Remarks of April 23, 2009.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 12 and 13 recite the limitation "their end surfaces." There is insufficient antecedent basis for this limitation in the claim.
4. The previous rejections under 35 USC § 112 found in the First Action have been corrected or the claims canceled, therefore the previous rejections are removed.

Claim Rejections - 35 USC § 102

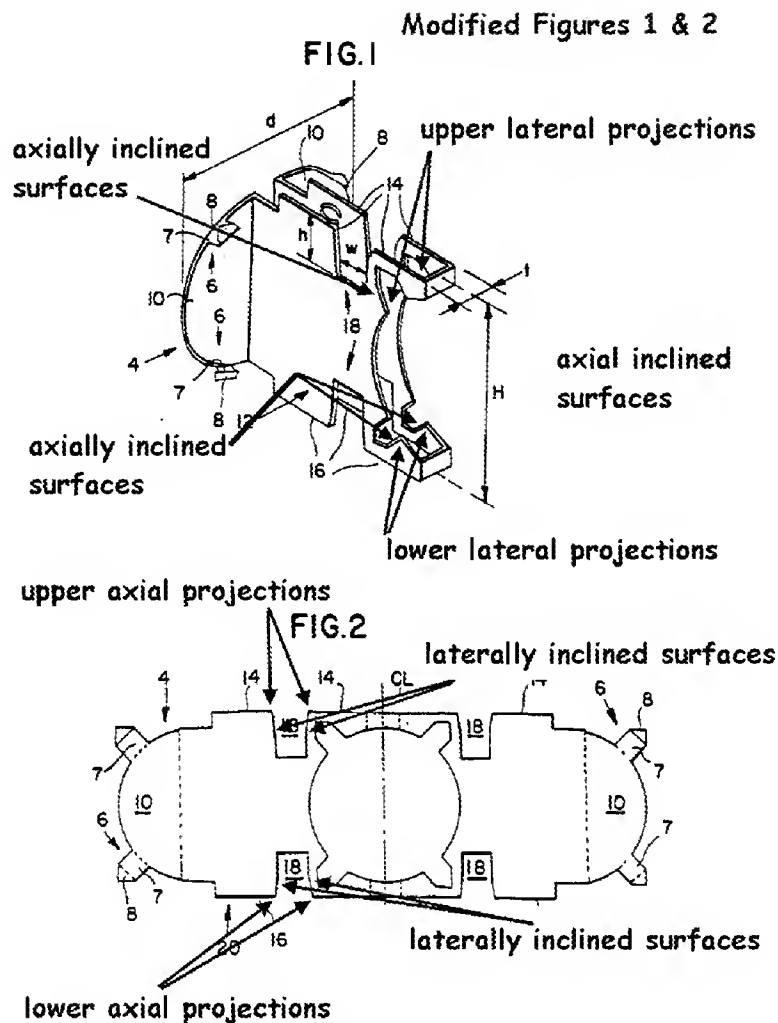
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Stein (U.S. 5,282,343).

7. In Re claim 1, Figures 1 and 2 of Stein disclose a cogging piece provided with lateral and axial inclined surfaces (see Mod. Figs. 1-2 below). The Examiner notes that Applicant has not set forth structural limitations to the orientation and therefore the claims are subject to broad interpretation. The additional language provided in claim 1 is either functional language or intended use language. To be limiting functional language or intended use language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c) & 2114. Here, Stein is capable of meeting the functional and intended use limitations.



8. In Re claim 2, Figures 1 and 2 (see modified Figs. 1 & 2) of Stein disclose two upper axial projections with laterally inclined surfaces and two lower axial projections with laterally inclined surfaces, two upper lateral projections with axially inclined surfaces and two lower lateral projection with axially inclined surfaces.

9. In Re claims 6 and 7, Figures 1 and 2 (see modified Figs. 1 & 2) of Stein disclose the claimed symmetrical orientation of the upper and lower axial projections.

Art Unit: 3635

10. In Re claim 8, Modified Figure 2 of Stein discloses the claimed symmetrical orientation of the upper and lower lateral projections.

11. In Re claim 9, Figure 4 of Stein discloses a permanently attaching means (8). The phrase, "for permanently attaching" found in the claim, is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c). Here the claimed connection is capable of being made.

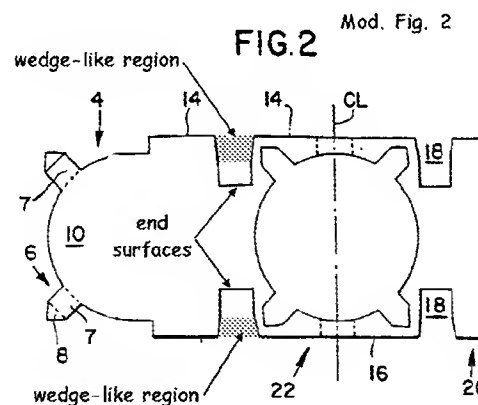
12. In Re claim 10, Figure 4 of Stein discloses a temporary attaching means (8). The phrase, "for temporarily attaching" found in the claim, is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c). Here the claimed connection is capable of being made.

13. In Re claim 11, Figure 4 of Stein discloses the claimed cogging piece. The phrase, "to be" above, is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order

Art Unit: 3635

to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c). Here the cogging piece of Stein is capable of being attached with a bracket and pin.

14. In Re claim 12, Figure 2 (see Mod. Fig. 2 below) of Stein discloses a substantially wedge-like region (shaded region) is defined between said upper laterally inclined surfaces, said region corresponding with the shape of said two lower lateral projections, and wherein two cogging pieces positioned adjacent to each other will have their end surfaces in contact with each other. The Examiner is interpreting the "corresponding with the shape" limitation to be met by the fact that the two elements are both shaped and located on the same piece, such an interpretation is reasonable as "corresponding" is not defined.



15. In Re claim 13, Figure 2 (see Mod. Fig. 2 above) of Stein discloses a substantially wedge-like region (shaded region) is defined between said lower laterally inclined surfaces, said region corresponding with the shape of said two upper lateral

Art Unit: 3635

projections, and wherein two cogging pieces positioned adjacent to each other will have their end surfaces in contact with each other. The Examiner is interpreting the "corresponding with the shape" limitation to be met by the fact that the two elements are both shaped and located on the same piece, such an interpretation is reasonable as "corresponding" is not defined.

Response to Arguments

16. Applicant's arguments filed May 23, 2009 have been fully considered but they are not persuasive.

17. **Applicant argues** that the figures of Stein do not disclose lateral inclined surfaces. Modified Figures 1 and 2 point out the portions of Stein that include lateral included surfaces. Modified Figure 2 specifically shows two lateral included surfaces indicated at the arrows. It is noted that the features upon which applicant relies (i.e., lateral inclined surfaces) are not recited in the rejected claims such that the claims can only be interpreted to embody the figures of the present invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Here, the claims are open to a very broad interpretation based on the absence of sufficient structural limitations.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY N. BARTOSIK whose telephone number is (571)270-3112. The examiner can normally be reached on M-F 7:30-5:00; E.D.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

Anthony Bartosik
Examiner
Art Unit 3635